IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8811 OF 2004

Miss. Leena Dadu Sathe ...Petitioner

Versus

Sangli-Miraj-Kupwad City Municipal Corporation ...Respondents

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Mr. A.V. Bukhari with Mr. B.V. Bukhari, counsel for Petitioner

Mr. N.V.Walawalkar, counsel for Respondents.

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CORAM: B. H. MARLAPALLE, J.

DATED: 19TH JANUARY, 2005

P.C.:-

1. Heard Mr. Bukhari, the learned counsel for the petitioner who approached the Labour Court at Sangli in complaint (ULP) No. 47/2003 alleging that she was orally removed from service w.e.f. 2.7.2003 and without complying with the requirements of Section 25 F of the Industrial Disputes Act, 1947. Alongwith the complaint she had moved an application for interim relief at Exh.U-2 and the said application was allowed by the Labour Court on 12.3.2004. This order was challenged by the Municipal Corporation in Revision Application (ULP) No. 14/2004. The learned Member of the Industrial Court at Sangli was pleased to allow the Revision Application partly and the

impugned order directing the Corporation to provide work to the complainant and pay wages was set aside. The Labour Court was directed to decide the interim application at Exh.U-2 afresh.

2. Subsequently, the Labour Court passed fresh order on 2.7.2004 and allowed the application at Exh.U-2. The Labour Court also held prima facie that the Corporation had engaged in Unfair Labour Practice under Item 1 (b), (d) & (f) of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971. The Labour Court accepted the petitioner's case that prima facie there was employer and employee relations between her and the Corporation and that the oral termination was without compliance of requirements of Section 25 F of the Industrial Disputes Act, 1947.

3. The Corporation in the second round challenged the order passed by the Labour Court on 2.7.2004 in Revision Application (ULP) No. 37/2004 and the learned Member of the Industrial Court Sangli by his order dated 4.10.2004 allowed the Revision Application and consequently set aside the order passed by the Labour Court. Hence, this petition filed by the employee/complainant.

4. In the complaint filed by the petitioner herself she had stated that initially she was engaged through

a Contractor as a Junior Clerk and the said contract had expired in December, 1999. It was her case that thereafter, she was continued in service of the Corporation in the Town Planning Department as a Junior Clerk, by oral orders. She was abruptly removed from service on 2.7.2004. She did not mention the name of the contractor or the Officer who employed her by oral orders after the contract expired. In the second round, she had placed on record some documents and also the Corporation did place some documents before the Labour Court. The Tribunal scrutinised these documents and noted that the letters issued by contractor Shri. Namdeo Gangaram Avale placed on record at Exh.U-7 and Exh.C-9, were contrary to each other. Similarly, the Industrial Court noted that there was a letter dated 15.2.2001 written by Shri. Jaywantrao Avale stating that the petitioner was working in the Town Planning Department of the Corporation without any wages. On assessment of the record, the Industrial Court concluded that there was no prima facie evidence to show that the petitioner was appointed by the Corporation and she was the employee of the Corporation.

5. The Corporation is a body corporate established under the Bombay Provincial Municipal Corporations Act, 1949, the Commissioner is the Chief Executive

Officer of the Corporation and any employee appointed by the Corporation either on temporary basis, daily wages or on probation, would be issued an appointment order. The petitioner herself claims right from the beginning that she was appointed by oral orders and did not mention the name of the Officer who had appointed her. Under these circumstance, the Industrial Court was right in holding that the Labour Court had exceeded its powers by allowing the application at Exh.U-2, under Section 30(2) of the M.R.T.U. and P.U.L.P. Act, 1971. No interference is therefore, called for in the said order under Article 227 of the Constitution of India, as the said order does not suffer from any error apparent on the face of the record.

6. The petition is therefore, rejected summarily and the trial of complaint (ULP) No.47/2003 pending before the Labour Court, Sangli is expedited. Interim order stands vacated. Oral application for stay is hereby rejected.